

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

GEOFFREY JOHN WELLS,
vs.
JOHN DOE,
Plaintiff,
Defendants.)

Case No. 2:07-cv-00946-PMP-GWF

ORDER

Application for Leave to Proceed *in forma pauperis* - (#3)

This matter is before the Court on Plaintiff's Application for Leave to Proceed *in forma pauperis* (#3), filed on July 17, 2007.

DISCUSSION

Pursuant to the Prison Litigation Reform Act of 1995, the district court is required to assess a fee where a prisoner is granted leave to proceed *in forma pauperis* in a civil action, and the prison officials are required to collect and remit the money to the court. See 28 U.S.C. § 1915(b)(1)-(2). Pursuant to the IFP Motion Financial Certificate, a plaintiff must pay a filing fee of \$350.00. If the plaintiff does not have \$350.00, the plaintiff will not be allowed to proceed with the action until the plaintiff pays appropriate fees. The plaintiff will be required to pay either 20% of the average monthly balance or 20% of the average monthly deposits, whichever is greater. Furthermore, the plaintiff will be required to pay installments of 20% of the preceding month's deposits to the account in months that the account balance exceeds \$10.00.

Plaintiff, who is a prisoner in the custody of the Nevada Department of Corrections, *see* 28 U.S.C. § 1915(h), has submitted an Application for Leave to Proceed *in forma pauperis* (#3) and a Civil

1 Rights Complaint (#1). Although the information provided on Plaintiff's Application for Leave to
2 Proceed *in forma pauperis* (#3) may be relevant, Plaintiff has failed to attach with his application an
3 IFP Motion Financial Certificate and a copy of his inmate account statement, as required by 28 U.S.C.
4 § 1915(a)(2) and Local Rule LSR 1-2. Accordingly,

5 **IT IS HEREBY ORDERED** that Plaintiff's Application for Leave to Proceed *in forma*
6 *pauperis* (#3) is **denied** without prejudice.

7 **RECOMMENDATION**

8 **IT IS HEREBY RECOMMENDED** that this action be **dismissed** without prejudice to
9 Plaintiff's commencement of a new action in which he either pays the filing fee in full or submits a
10 complete Application to Proceed *In Forma Pauperis*, accompanied by a signed financial certificate and
11 a statement of his inmate account.

12 **NOTICE**

13 Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in
14 writing and filed with the Clerk of the Court within ten (10) days. The Supreme Court has held that the
15 courts of appeal may determine that an appeal has been waived due to the failure to file objections
16 within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1)
17 failure to file objections within the specified time and (2) failure to properly address and brief the
18 objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues
19 from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi*
20 *Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

21 DATED this 18th day of January, 2008.

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24 **GEORGE FOLEY, JR.**
25 **UNITED STATES MAGISTRATE JUDGE**
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